

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CARE INVESTMENT TRUST, INC.,

Plaintiff,

v.

JEAN-CLAUDE SAADA; CAMBRIDGE ONALP, INC.; CAMBRIDGE NASSAU BAY GP LLC; 6000 GREENVILLE, INC.; ALLEN MOB, INC.; 5280 MEDICAL DRIVE, INC.; CAMBRIDGE GORBUTT MOB, INC.; CAMBRIDGE TARRANT, INC.; CHMP MANAGER, LLC; CAMBRIDGE B/R, INC.; CAMBRIDGE-GREENVILLE DALLAS, LLC; PMC CAMBRIDGE OF PLANO, LTD; CAMBRIDGE-CROWN ATRIUM LLC; and CAMBRIDGE NORTH TEXAS HOLDINGS, LLC,

Defendants.

No. 3:09-cv-02256-K

**DEFENDANTS' AND
COUNTERCLAIM PLAINTIFFS'
RESPONSE TO COUNTERCLAIM
AND THIRD PARTY
DEFENDANTS' MOTION FOR
LEAVE TO FILE AN AMENDED
ANSWER AND COUNTERCLAIM**

JEAN-CLAUDE SAADA; CAMBRIDGE ONALP, INC.; CAMBRIDGE NASSAU BAY GP LLC; 6000 GREENVILLE, INC.; ALLEN MOB, INC.; 5280 MEDICAL DRIVE, INC.; CAMBRIDGE GORBUTT MOB, INC.; CAMBRIDGE TARRANT, INC.; CHMP MANAGER, LLC; CAMBRIDGE B/R, INC.; CAMBRIDGE-GREENVILLE DALLAS, LLC; PMC CAMBRIDGE OF PLANO, LTD; CAMBRIDGE-CROWN ATRIUM LLC; and CAMBRIDGE NORTH TEXAS HOLDINGS, LLC,

Counterclaim Plaintiffs,

v.

CARE INVESTMENT TRUST, INC.; CIT HEALTHCARE, LLC; FLINT D. BESECKER; ERC SUB, LP; and ERC SUB, LLC,

Counterclaim and Third Party
Defendants.

Counterclaim Defendant and Third-Party Defendants (“Care Parties”) have filed a Motion For Leave To File An Amended Answer and Counterclaim (Care’s “Motion to Amend”) seeking to add a cause of action for breach of contract. That motion follows by several weeks a similar motion to amend that Cambridge filed, seeking to add a cause of action for specific performance of a written and definitive agreement that was unilaterally repudiated by Care after all material terms had been agreed upon. Given the liberal standard for granting leave to amend set forth in Federal Rule of Civil Procedure 15(a), Cambridge does not oppose Care’s Motion to Amend and respectfully requests that the Court grant Cambridge’s Motion to Amend.

As explained in Cambridge’s Motion to Amend (Mot. at 2), leave to amend “shall be freely given when justice so requires.” Fed. R. Civ. P. 15(a). A motion to amend should be denied only in rare circumstances, where there has been undue delay or bad faith, where amendments would be futile, or where the opposing party would be prejudiced. *See Foman v. Davis*, 371 U.S. 178, 182-183 (1962). Cambridge does not believe that either party’s Motion to Amend presents such “rare circumstances” and submits that both parties should be permitted to amend their pleadings and litigate their additional claims.

Cambridge’s acquiescence to Care’s petition to amend its counterclaims in no way constitutes an admission that Care’s proposed counterclaim has any merit whatsoever. To the contrary, Care’s proposed breach of contract claim lacks any merit whatsoever and should be dismissed at the appropriate time. Care’s proposed counterclaim is based on an allegation that Cambridge failed to cooperate with an audit of Care’s financial statements. The facts, discovery will show, are to the contrary.

Cambridge scrupulously complied with its contractual obligations and cooperated fully with Care's auditors to provide the requested financial information. Indeed, recent correspondence between Care and the Securities and Exchange Commission reveals that Care recognizes that Cambridge had no legal duty to supply financials in the form that Care now seeks to require and thus that Cambridge in no way breached its obligations to Care.

At the appropriate time, Cambridge will demonstrate that Care's misguided breach of contract claim fails as a matter of law. For purposes of the pending Motions to Amend, however, Cambridge respectfully requests that the Court permit the parties to amend their pleadings and move forward with their additional claims.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: /s/ Robert M. Cohan
Robert M. Cohan
Texas Bar No. 04506600
Email: bcohan@jw.com
William D. Ellerman
Texas Bar No. 24007151
Email: wellerman@jw.com
901 Main Street, Suite 6000
Dallas, Texas 75202
Telephone: (214) 953-6000
Facsimile: (214) 953-5822

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

By: /s/ Richard A. Rosen
Richard A. Rosen
E-mail: rosen@paulweiss.com
James L. Brochin
E-mail: jbrochin@paulweiss.com
1285 Avenue of the Americas
New York, New York 10019-6064
Telephone: (212) 373-3000
Facsimile: (212) 757-3990

*Attorneys for Defendants and Counterclaim
Plaintiffs Jean-Claude Saada, Cambridge
Onalp Inc., Cambridge Nassau Bay GP LLC,
6000 Greenville Inc., Allen MOB Inc., 5280
Medical Drive Inc., Cambridge Gorbitt MOB
Inc., Cambridge Tarrant Inc., CHMP Manager
LLC, Cambridge B/R Inc., Cambridge-
Greenville Dallas LLC, PMC Cambridge of
Plano Ltd., Cambridge Crown Atrium LLC and
Cambridge North Texas Holdings LLC*

CERTIFICATE OF SERVICE

This is to certify that on this 1st day of July, 2010, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Courts. I hereby certify that I have served all counsel of record electronically as authorized by Federal Rules of Civil Procedure 5(b)(2).

/s/ Robert M. Cohan
Robert M. Cohan